

## **REMARKS/ARGUMENTS**

### **Claim Amendments**

The Applicant has amended claims 22, 35, 36, 37, 41, and 42. Support for the amendments can be found in at least paragraph [0083] of the present Specification. The Applicant respectfully submits no new matter has been added. Accordingly, claims 22-26 and 35-42 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### **Claim Rejections – 35 U.S.C. § 103 (a)**

Claims 22-24, 26, 35-38, and 40-42 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over US 2004/0266394 to Mizell et al (hereinafter “Mizell ‘394”) in view of US 2003/0125013 to Mizell et al (hereinafter “Mizell ‘013”). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, the Applicant has chosen to respectfully disagree and traverses the rejection as follows. The Applicant reserves the right, for example, in a continuing application, to establish that the cited references, or other references cited now to hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

The Applicant respectfully submits that Claims 22-24, 26, 35-38, and 40-42 are patentable because Mizell ‘394 and Mizell ‘013, taken alone or in any permissible combination, fail to disclose, teach, or suggest at least one of the elements of amended independent claims 22, 35, 36, 37, 41, and 42. For example, Mizell ‘394 and Mizell ‘013, taken alone or in any permissible combination, fail to disclose, teach, or suggest “means for storing said volume count, if said service class value applies to a payload of more than one packet data unit” (*emphasis added*), as recited in amended claim 36. Amended independent claims 22, 35, 37, 41, and 42 also recite substantially similar elements.

In support of the rejection of the claims, and in particular, in support of the rejection of a prior version of independent claim 36, the Non-Final Office Action cites

paragraphs [0028], [0031], [0035], [0039], and [0045] of Mizell '394 as allegedly disclosing "means for storing said volume count," as recited in a prior version of independent claim 36. For example, paragraph [0028] of Mizell '394 discusses "[e]ach CDR contains information on data provided to the mobile node such as packet data volume ...." Paragraph [0031] of Mizell '394 discusses "CGF 144 correlates the CDRs received from GGSN 120 and SGSN 116 to reconcile differences in volume count and adjust charges to the appropriate rate buckets accordingly." Paragraph [0035] of Mizell '394 discusses correlation of charges. Paragraph [0039] discusses a GPRS/UMTS accounting element. Paragraph [0045] discusses generating a charging record relating a charge rate to a quantity of data packets transmitted.

However, even if the aforementioned paragraphs of Mizell '394 do disclose "means for storing said volume count" (a point which the Applicant does not concede), the cited paragraphs of Mizell '394 and Mizell '013, taken alone or in any permissible combination still fail to disclose, teach, or suggest "means for storing said volume count, if said service class value applies to a payload of more than one packet data unit," as currently recited in amended independent claim 36. The cited references may mention volume count, but only in the context of generating charging data in the GGSN and the SGSN of Mizell '394. However, the cited references fail to discuss or suggest anything about including a volume count "if said service class value applies to a payload of more than one packet unit," as explicitly recited in the amended claims.

In fact, one with skill in the art would not even expect the cited passages of Mizell '394 and Mizell '013, taken alone or in any permissible combination, to disclose, teach, or suggest "means for storing said volume count, if said service class value applies to a payload of more than one packet data unit" because the cited references, taken alone or in any permissible combination, provide no such method or mechanism to apply a service class value to the payload of more than one packet data unit.

Since the cited references, taken alone or in any permissible combination, fail to disclose, teach, or suggest at least one of the elements of the amended independent claims, such independent amended claims 22, 35, 36, 37, 41, and 42 and all claims

dependent therefrom are patentable over the cited references. Thus, the Applicant respectfully request that the rejection be withdrawn.

Claims 25 and 39 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Mizell '394 and Mizell '013 as applied to claims 23 and 37 above, and further in view of US 2002/0058496 to Bos et al. While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, the Applicant has chosen to respectfully disagree and traverses the rejection as follows. The Applicant reserves the right, for example, in a continuing application, to establish that the cited references, or other references cited now to hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. However, Bos is not cited as disclosing, teaching, or even suggesting any of the limitations of amended independent claims 22, 35, 36, 37, 41, and 42. Dependent claims 25 and 39 are dependent on amended independent claims 22 and 37, respectively. Thus, dependent claims 25 and 39 are patentable at least by virtual of their dependency on independent claims 25 and 39, respectively. The Applicant therefore respectfully requests that the rejection be withdrawn.

### CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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